

**§IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

Lt. Commander Kenneth J. Whitwell, U. S. Navy,	:	
	:	C. A. No.: 05 CV 796 SLR
Plaintiff,	:	
	:	
v.	:	TRIAL BY JURY DEMANDED
	:	
Archmere Academy, Inc., a Delaware corporation;	:	
	:	
The Catholic Diocese of Wilmington, Inc., a Delaware corporation;	:	
	:	
Rev. Edward Smith, individually and in his official capacity; and	:	
	:	
Rev. Michael A. Saltarelli, in his official capacity,	:	
	:	
Defendants.	:	

**MOTION TO DISMISS OF DEFENDANT, ARCHMERE ACADEMY, INC.**

By and through below-signed counsel, Defendant Archmere Academy, Inc. (“Archmere”) hereby moves to dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. As set forth more fully in the Opening Brief in Support of Archmere’s Motion to Dismiss to be filed according to the dates set forth in the Stipulated Briefing Schedule, subject to the approval of the Court, the Complaint fails to state a claim upon which relief can be granted because, *inter alia*, all of the claims against Archmere are barred by the applicable statute of limitations.

**WHEREFORE**, Archmere respectfully moves this Honorable Court for an ORDER granting the moving defendant’s Motion to Dismiss.

Respectfully submitted,

ELZUFON AUSTIN REARDON  
TARLOV & MONDELL, P.A.

*/s/ Mark L. Reardon*

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MARK L. REARDON (#2627)  
300 Delaware Avenue, 17<sup>th</sup> Floor  
P. O. Box 1630  
Wilmington, DE 19899-1630  
(302) 428-3181  
Attorney for Defendant Archmere Academy, Inc.

Dated: March 27, 2006  
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